IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Bail Appl..No. 4358 of 2007()

(CRIME NO.37/2007 OF KUTTANAD EXCISE RANGE)

: PETITIONER/ACCUSED A-1:

SUNILKUMAR @ SUNICHAN,
COLONY NO.26, BIJU BHAVAN, MAMPUZHAKARI,
RAMANKARI P.O.

BY ADV. SRI.SAIBY JOSE KIDANGOOR
SRI.JOSWIN THAMBI KUNNATH

RESPONDENTS: STATE & COMPLAINANT:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. EXCISE RANGE OFFICER,
EXCISE OFFICE, KUTTANAD.

BY PUBLIC PROSECUTOR ADV.SRI.P.RAVEENDRA BABU

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4358 of 2007

Dated this the 19th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegation under the Kerala Abkari Act. The crux of the allegations is that the petitioner along with co-acused was allegedly found to be in possession of 21 litres of colored arrack. The petitioner/1st accused ran away from the scene of the crime. The 2nd accused was arrested. In the scene mahazar as also the occurence report there are specific statements about the complicity of the petitioner. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that allegations against the petitioner are false and anticipatory bail may be granted to the petitioner. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the available indications point clearly to the complicity of the petitioner. The petitioner is involved in a number of crimes under the Abkari Act also. There is absolutely no circumstances justifying the grant of anticipatory bail to the petitioner, submits the learned Public Prosecutor. When the learned Public Prosecutor opposes an application validly, even regular bail can be granted to the petitioner, only if this

Court is in a position to entertain both the satisfactions contemplated under Section 41A of the Kerala Abkari Act.

3. In the facts and circumstances of the case, I find no reason to grant anticipatory bail to the petitioner. This is a fit case where the petitioner must follow the ordinary and normal procedure of appearing before the Investigating Officer or the learned Magistrate having jurisdiction. He must then seek regular bail in the ordinary course.

4. In the result, this petition is dismissed. I may however, hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously-on the date of surrender itself unless there are exceptional and compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE